
I. MOTION FOR PROTECTIVE ORDER

On October 20, 2003, InfoHighway Communications Corporation, Inc. (InfoHighway) filed an Offer of Proof as required by my Procedural Order dated October 15, 2003. Accompanying InfoHighway's Offer of Proof was a Motion for Protective Order in which InfoHighway requested that information concerning its customer counts and revenues be treated as proprietary information. To effectuate this requested protection, InfoHighway requested that the Commission enter a protective order in the form suggested in an attachment to the Motion.

Due to the extremely short deadlines associated with the 90-day proceeding, a Protective Order will be issued before other parties have had an opportunity to comment on the request. The Protective Order issued today is one used in many Commission proceedings and contains the Commission's preferred language concerning protection of confidential materials. To the extent that any party objects to the issuance of a Protective Order in this proceeding, it should file such objections **no later than October 30, 2003**. If objections are filed, they will be addressed. In the meantime, the attached Protective Order is effective.

II. REQUEST TO SUBMIT COMMENTS

On October 22, 2003, Verizon requested an opportunity to respond to InfoHighway's October 20th Offer of Proof. Verizon states that it should be allowed to comment upon the sufficiency of InfoHighway's Offer of Proof and correct what it believes are mischaracterizations of the Federal Communications Commission's (FCC) *Triennial Review Order* (TRO).¹ Verizon committed to filing its comments within 5 business days of a Procedural Order granting its request. On October 23, 2003, InfoHighway filed a letter objecting to Verizon's request claiming that the Commission had sufficient information before it to reach a determination regarding whether to hold a 90-day proceeding.

¹ *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket 01-338 (rel. August 21, 2003) (*Triennial Review Order* or *TRO*).

Comments concerning the sufficiency of InfoHighway's Offer of Proof may be helpful to the Commission in reaching its decision. Accordingly, Verizon, as well as any other interested party, may provide comments on InfoHighway's Offer of Proof by **October 31, 2003**. If the Commission requires any further comment on the subject, it will make a specific request for comments.

BY ORDER OF THE HEARING EXAMINER

Trina M. Bragdon
Hearing Examiner